INCOME TAX REFUND INTEREST

39-22-622

1) Refund interest paid on all income tax returns, including amended returns, received on or after March 25, 2009 is controlled by §39-22-622, C.R.S. A refund will include interest at the rate specified in §39-21-110.5, C.R.S. plus a 5% refund penalty if the refund is not issued within the following time frames unless an exception to the refund interest applies.

2) Time Frames.

- a) For any return filed on or before the original due date of the return excluding any extension of time to file that is filed in January, the refund must be issued within 14 days following the date the return was physically received at the Department of Revenue.
- b) For any return filed on or before the original due date of the return excluding any extension of time to file that is filed in February, the refund must be issued within 21 days following the date the return was physically received at the Department of Revenue.
- c) For any return filed on or before the original due date of the return excluding any extension of time to file that is filed in March, the refund must be issued within 28 days following the date the return was physically received at the Department of Revenue.
- d) For all other income tax returns, the refund must be issued within 45 days following the date the return was physically received at the Department of Revenue.
- e) For any return filed in April of any year, due to the volume of income tax mail received in that month, the date the return was physically received at the Department of Revenue will be deemed to be May 1 for the purpose of computing the date on which the refund must be issued.
- 3) **Exceptions.** Refund interest will not be paid if the delay is caused by any of the following:
 - a) Errors on the return when filed (includes, but not limited to, erroneous or illegible tax id numbers, misspelled names, calculation errors, missing required documentation or certifications, and unclaimed payments)
 - b) Unforeseen delays caused by the failure of the processing equipment; equipment includes but is not limited to physical equipment and electronic processing systems
 - c) A review/audit to verify the accuracy of the return (does not include any review/audit initiated as a result of a Department of Revenue data entry error)
 - d) The return includes a Colorado job growth incentive tax credit
 - e) Effective January 1, 2012, the return includes an enterprise zone credit and the Department is awaiting confirmation from the Colorado Office of Economic Development that the taxpayer is eligible for such credit.
- 4) Refunds initially exempt from refund interest under paragraph 3) above may receive full or partial refund interest if, after the error correction or review is completed, the refund is delayed more than the time frames defined in paragraph 2) above.

- 5) **Excessive Prepayments.** Due to the burden articulated in §39-21-110(1.5)(b):
 - a) If the total prepayments (withholding, estimated payments, extension payments, sales tax refund, and other payments) are more than double the amount of the net tax liability, then no refund interest will be paid on any refund.
 - b) If an amended return or claim for refund reduces the net tax liability or increases the prepayments, no refund interest will be paid on any refund if the total prepayments and prior payments are more than double the amount of the amended net tax liability. [§39-21-110(1.5), C.R.S.]
 - c) If the taxpayer establishes that the prepayment was made incident to a bona fide and orderly discharge of an actual liability, or a liability reasonably assumed to be imposed by law, then interest will be paid.